

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

THE ROCKPORT COMPANY, LLC,

Plaintiff,

v.

E.S. ORIGINALS, INC.

Defendant.

CIVIL ACTION NO. 04-12714-WGY

DEFENDANT'S RENEWED MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56, Defendant, E.S. Originals, Inc. ("ESO"), moves for summary judgment of dismissal because Rockport has no evidence of damages. The support for this Motion is set forth in the accompanying Memorandum In Support of Defendant's Renewed Motion for Summary Judgment, the Declaration of Morris Shalom with exhibits, previously submitted to the Court on March 16, 2005, and the Declaration of Laura Topper with exhibits, submitted with this Motion. ESO also submits with this Motion the statement of undisputed facts required by L.R. 56.1.

Request For Oral Argument

ESO requests oral argument on this motion.

Certification Under Local Rule 7.1

Pursuant to Local Rule 7.1 I certify that ESO's counsel has conferred with opposing counsel in a good faith effort to resolve or narrow the issues presented by this motion.

Date: October 12, 2005

Respectfully submitted,

ESO

by its attorneys,

/s/ James J. Foster

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